
PERSONAL TAX PLANNING

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US EXPATRIATION ISSUES: THE UN-AMERICAN WANTED BY THE IRS

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US lawmakers have long recognized that expatriating can be a means of reducing one's tax. Consequently, they have imposed sanctions on US citizens who are considered to have expatriated with a principal purpose of tax avoidance. In the case of a US citizen, "expatriating" means relinquishing citizenship. In the case of a lawful permanent resident alien, "expatriating" means ceasing to be a permanent resident.

In a world with an increasingly mobile population, however, it is debatable whether a departure from the United States and/or a return to the country of one's birth (or of a spouse's or parent's birth) is a relevant concern, in and of itself, in determining whether an expatriation is tax-motivated. Employees of multinational enterprises are frequently reassigned without regard to their nationality, place of birth, or past history of residence. People may expatriate for any number of reasons, and they should not be presumed to have expatriated for a principal purpose of tax avoidance without an opportunity to have their motivations examined in a tax audit.

This article provides an overview of the current US expatriation provisions of the Internal Revenue Code and the major changes proposed in the Armed Forces Tax Fairness Act of 2003. The criteria for determining whether an individual is subject to the expatriation provisions of the Code are also discussed, as are certain compliance requirements. The article also provides an overview of the results of Internal Revenue Service rulings under the provisions.

Owing to the complex nature of the expatriation provisions, detailed income tax and estate tax planning techniques for individuals who are considering expatriating are

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beyond the scope of this article. The authors' intention is merely to make advisers and taxpayers aware of the US expatriation rules and the possible changes thereto.

KEYWORDS: EXPATRIATION ■ ESTATE AND GIFT TAX ■ EXIT TAX ■ US PERSONAL TAXATION ■ RULING REQUEST

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